



1 Charles H. Smith
2 chsmith@smith-moore.com
3 SMITH & MOORE PLLC
4 3030 Lincoln Plaza
5 500 N. Akard Street
6 Dallas, Texas 75201
7 Telephone: (214) 740-4200
8 Facsimile: (214) 740-4242

6 Peter P. Brotzen #53230
7 PPB@db2law.com
8 Gregory L. Anderson #129931
9 GLA@db2law.com
10 DWYER, DALY, BROTZEN & BRUNO, LLP
11 550 South Hope Street, Suite 1900
12 Los Angeles, California 90071-2632
13 Tel. (213)627-9300
14 Fax (213)624-1638

11 Attorneys for Defendant
12 FLIGHTSAFETY INTERNATIONAL INC. erroneously sued
13 and served herein as FLIGHT SAFETY INTERNATIONAL

13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 TRISHAN AIR, INC.; KERRY
17 ACQUISITIONS, LLC; and
18 KOOSHAREM CORPORATION,

18 Plaintiff(s),

19 vs.

20 DASSAULT FALCON JET CORP.;
21 DASSAULT AVIATION;
22 DASSAULT AIRCRAFT SERVICES,
23 FLIGHT SAFETY
24 INTERNATIONAL; and DOES 2-10,

23 Defendant(s).

Case No. CV08-7294 VBF (CWx)

~~PROPOSED~~

AMENDED PROTECTIVE ORDER

25 The parties recognize that preparation and trial of this action will require the
26 discovery of business records and other materials claimed by one or more of the
27 parties to contain confidential business and commercial information. Some
28 information of that type has already been requested in discovery sought by certain

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900

LOS ANGELES, CALIFORNIA 90071-2632

1 parties. Therefore, the parties have stipulated that this Amended Protective Order
2 may be entered by the Court, and that the order shall govern confidential information
3 produced in these proceedings.

4 1. All confidential and commercial information, i.e., documents, tangible
5 things or other information (regardless of how generated, stored or maintained) that
6 qualify for protection under standards developed under Federal Rule of Civil
7 Procedure 26c, provided such documents or information have not previously been
8 disclosed by the producing party to the public, disclosed, furnished or submitted,
9 either voluntarily or pursuant to any Court order, by or on behalf of any party in this
10 action, if properly designated as "Confidential," shall be used solely in connection
11 with pretrial proceedings, preparation for trial, or other proceedings in this action.
12 Such documents or information or parts thereof will be designated after review by an
13 attorney for the producing party by stamping the words "CONFIDENTIAL
14 INFORMATION" or similar wording on each page.

15 2. If any party believes a document (or information) not described in the
16 above paragraph should nevertheless be considered confidential, it may make
17 application to the Court.

18 3. Material designated as "Confidential" shall be used solely for the
19 purpose of this action and not for any business or other purpose, and shall not be
20 communicated in any manner, directly or indirectly, to anyone other than a person
21 qualified under the terms of this Amended Protective Order. The protections
22 conferred by this Amended Protective Order cover not only the document,
23 information or tangible items designated as "Confidential," but also any information
24 copied or extracted therefrom, as well as all copies, excerpts, summaries, or
25 compilations thereof, plus testimony, conversations, or presentations by parties or
26 counsel to or in court or in other settings that might reveal Confidential materials.

27 4. Information that has been produced to or prepared by any agency of
28 government, and which otherwise is available to the public, shall not be considered

1 confidential unless such information produced to or prepared by any agency of
2 government is treated by that agency of government as "Confidential."

3 5. Access to materials designated "Confidential" shall be restricted to:

- 4 a. The Court and court personnel, including stenographic reporters
5 engaged in such proceedings as are 'necessarily incident to the
6 preparation or trial of this action;
- 7 b. Those officers, directors, and employees of the parties, including
8 the parties, whose assistance is required in the preparation of this
9 action for trial and who must have access to the materials to
10 render this assistance;
- 11 c. Experts or consultants retained in connection with this action.
- 12 d. The attorneys in the law firms appearing of record in this action
13 for the parties and personnel, who are directly employed by those
14 firms and are assisting the attorneys working on this action;
- 15 e. Any person who is to testify as a witness either at a deposition or
16 court proceeding in this action for the purpose of assisting in the
17 witness's preparation;
- 18 f. The insurance representatives of the parties; and
- 19 g. Such other persons as the parties to this action shall agree to in
20 writing or the Court shall determine.

21 6. Each qualified person described in subparagraphs b., c., e., f., or g. of
22 the preceding paragraph to whom "Confidential" materials are to be furnished, shown,
23 or disclosed shall first be presented by the disclosing party with a copy of the
24 Amended Protective Order. All such persons shall be bound by the terms of this
25 Amended Protective Order and shall not permit disclosure of the documents or
26 information other than pursuant to the terms of the Amended Protective Order. Also,
27 such persons shall execute a copy of the Affidavit attached as Exhibit A
28 acknowledging that they have read this Amended Protective Order and that they shall

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90071-2632

1 abide by its terms. Further, all such persons who receive such materials shall maintain
2 the materials in a separate, identifiable privileged information file, access to which
3 is appropriately restricted.

4 7. The receiving party shall maintain a list of all individuals to whom the
5 receiving party provides access to any of the confidential information or materials
6 produced in discovery, or in the alternative, a file containing copies of all Affidavits
7 (Exhibit A) signed by the receiving party pursuant to Paragraph 6 of this Amended
8 Protective Order. The producing party may apply to the Court for the production of
9 this list or file upon a showing of good cause. All such persons who receive such
10 materials shall expressly indicate whether any copies or information have been made
11 or removed from the privileged materials file and a record of the number of copies
12 and the location of each copy shall be maintained by the receiving party. Upon
13 termination of this action, whether by judgment, settlement or otherwise, the parties
14 to this action shall assemble and return to the original source party all "Confidential"
15 materials, including all copies thereof (but not including copies containing notes or
16 other attorneys' work product that may have been placed thereon by counsel for the
17 parties). All copies containing notes or other attorneys' work product shall be
18 destroyed within ten (10) days of the final resolution of this action, at which time
19 counsel for the parties shall confirm in writing to each other that such destruction has
20 occurred.

21 8. Nothing in the Amended Protective Order shall be deemed to restrict in
22 any way any party or attorneys with respect to that party's own documents.

23 9. The parties shall act in good faith in designating "Confidential" material.
24 Any classification of material as "Confidential" may be challenged by any party by
25 writing a letter to the attorney of record of the designating party, specifically
26 identifying the documents or information so challenged. The parties shall attempt in
27 good faith to resolve any disputes regarding designated material. If the parties cannot
28 agree, the designating party shall file under seal a written pleading identifying the

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90071-2632

1 designated material or information and stating with particularity why it believes the
2 designated material should be protected under this Order. The burden rests on the
3 party seeking confidentiality to demonstrate that such designation is appropriate.
4 However, the document or information at issue shall be treated as confidential until
5 the Court rules on the matter.

6 10. Any "Confidential" materials utilized at a deposition pertaining to these
7 actions shall be separately bound by the court reporter and retained in a sealed
8 envelope by the party who noticed the deposition. Any portion of a deposition
9 transcript containing or referring to confidential, commercial or proprietary
10 information may be designated as "Confidential" by any party. Parties shall have
11 fourteen (14) calendar days after the receipt of the deposition transcript to identify
12 and designate specific portions of the transcript as "Confidential." Pending
13 notification, the entire deposition transcript shall be treated as "Confidential" for the
14 fourteen (14) calendar days. Portions of a deposition transcript so designated shall
15 also be separately bound by the court reporter and retained in a sealed envelope by
16 the party who noticed the deposition. Nothing in this paragraph shall be construed
17 to prevent the parties to these actions from obtaining copies of "Confidential"
18 portions of a deposition transcript or deposition exhibits.

19 11. Nothing contained in this Protective Order shall be construed to
20 prejudice any party's right to use at trial any "Confidential" material. The producing
21 party may apply to the Court for further protection of the confidentiality of such
22 material if it is to be used at trial.

23 12. No "Confidential" materials may be filed in the public record of this
24 action without prior written permission from the party designating the document or
25 tangible item as "Confidential," or approval of the Court secured after appropriate
26 notice to all interested persons. A Party that seeks to file under seal any
27 "Confidential" materials must comply with Civil Local Rule 79-5.
28

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90071-2632

1 13. Stipulating to the entry of this Protective Order and/or producing or
2 receiving information or material designated as "Confidential" or otherwise
3 complying with the terms of this Protective Order shall not:

- 4 a. Operate as an admission by any party that any particular
5 information or material designated as "Confidential" contains or
6 reflects trade secrets, priority commercially sensitive information,
7 or any other type of confidential information;
- 8 b. Operate as an admission by any party that the restrictions and
9 procedures set forth herein constitute or do not constitute
10 adequate protection for any particular information deemed by any
11 party to be "Confidential";
- 12 c. Prejudice in any way the rights of the parties to claim a legal
13 privilege and object to the production of documents, information
14 or materials they consider not subject to discovery;
- 15 d. Prejudice in any way the rights of any party to object to the
16 authenticity or admissibility into evidence of any document,
17 testimony or other evidence subject to this Amended Protective
18 Order;
- 19 e. Prejudice in any way the rights of a party to seek a determination
20 by the Court whether any information or materials should be
21 subject to the terms of this Amended Protective Order;
- 22 f. Prejudice in any way the rights of a party to seek modification of
23 this protective order;
- 24 g. Prevent the parties to this Protective Order from agreeing in
25 writing or on the record during a deposition or hearing in this
26 action to alter or waive the provisions or protections provided for
27 herein with respect to any particular information or material so
28 designated as "Confidential" by the party agreeing to alter or

1 waive the protections.

2 IT IS HEREBY STIPULATED, THROUGH COUNSEL OF RECORD.

3 Dated: 6/25/09

FRANECKE LAW GROUP

4
5 BY: 

6 LOUIS S. FRANECKE
7 Attorneys for Plaintiffs, TRISHAN AIR,
8 INC., KERRY ACQUISITIONS, LLC and
9 KOOSHAREM CORPORATION

10 Dated: _____

YOKA & SMITH, LLP

11 BY: _____

12 WALTER M. YOKA
13 ANTHONY F. LATIOLAIT
14 DANIEL F. McCANN
15 RORY D. LEOS
16 Attorneys for Defendant, DASSAULT
17 FALCON JET CORP.

18 Dated: _____

DWYER, DALY, BROTZEN & BRUNO, LLP

19 By: _____

20 PETER P. BROTZEN
21 GREGORY L. ANDERSON
22 Attorneys for Defendant, FLIGHTSAFETY
23 INTERNATIONAL INC. erroneously sued
24 and served herein as FLIGHT SAFETY
25 INTERNATIONAL

26 PURSUANT TO STIPULATION, IT IS SO ORDERED.

27 DATED: _____

U. S. DISTRICT/MAGISTRATE JUDGE

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900

LOS ANGELES, CALIFORNIA 90071-2632

waive the protections.

IT IS HEREBY STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: _____ FRANECKE LAW GROUP

BY: _____

LOUIS S. FRANECKE
Attorneys for Plaintiffs, TRISHAN AIR,
INC., KERRY ACQUISITIONS, LLC and
KOOSHAREM CORPORATION

Dated: July 7, 2009

YOKA & SMITH, LLP

BY: _____

WALTER M. YOKA
ANTHONY F. LATIOLAIT
DANIEL F. McCANN
RORY D. LEOS
Attorneys for Defendant, DASSAULT
FALCON JET CORP.

Dated: 7-16-09

DWYER, DALY, BROTZEN & BRUNO, LLP

By: _____

PETER P. BROTZEN
GREGORY L. ANDERSON
Attorneys for Defendant, FLIGHTSAFETY
INTERNATIONAL INC. erroneously sued
and served herein as FLIGHT SAFETY
INTERNATIONAL

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: July 21, 2009

Carla M. Wachler
U. S. DISTRICT/MAGISTRATE JUDGE

DWYER, DALY, BROTZEN & BRUNO, LLP

550 SOUTH HOPE STREET, SUITE 1900

LOS ANGELES, CALIFORNIA 90071-2632